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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/531,761

11/01/2005

Robert Cummins

16962-2

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7590
Clifford W Browning
Suite 3700
111 Monument Circle,
Indianapolis, IN 46204-5137

01/18/2008

EXAMINER

MCCARRY JR, ROBERT J

ART UNIT

PAPER NUMBER

3617

MAIL DATE

DELIVERY MODE

01/18/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/531,761

Applicant(s)

CUMMINS, ROBERT

Examiner

ROBERT J. MCCARRY JR

Art Unit

3617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-37 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>4/18/05</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

The Information Disclosure Statement filed April 18, 2005 has been reviewed by the Examiner. The prior art references of DCF Hickman Ltd. (WO96/22821) and Shepherd et al (WO 02/*085478) have not been considered since copies of the references have not been included with the application.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 7, 8, 25 and 26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 7 recites the track "positioned inside a valley or natural feature." Valleys and "natural features" cannot be claimed as they occur naturally in the environment and do not further limit the claim. This leaves the claim vague and indefinite.

Claim 8 recites the track "positioned down the side of a hill or sloping surface." Hills and sloping surfaces cannot be claimed as they occur naturally in the environment and do not further limit the claim. This leaves the claim vague and indefinite.

Claim 25 recites the track "positioned inside a valley or natural feature." Valleys and "natural features" cannot be claimed as they occur naturally in the environment and do not further limit the claim. This leaves the claim vague and indefinite.

Claim 26 recites the track "positioned down the side of a hill or sloping surface." Hills and sloping surfaces cannot be claimed as they occur naturally in the environment and do not further limit the claim. This leaves the claim vague and indefinite.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-37 are rejected under 35 U.S.C. 102(b) as being anticipated by Schwarzkopf (US 4,165,695).

Schwarzkopf discloses an amusement ride comprised of a non-continuous track shown in figure 1 having a lower center portion two higher ends and a twisting barrel roll assembly positioned between the lower center portion and a higher end portion. A vehicle is positioned to move along the various track sections along rails. The vehicle is propelled by a cable drive located at the lower center portion and anchored below the right higher end portion as shown in figure 1. A motor operates the cable propulsion at various speeds through a clutch. The system is further comprised of a brake system mounted with the motor and clutch to slow and stop the cable and therefore control the speed and movement of the vehicle. The motor, clutch and brake systems are shown in figure 6 to be connected with the cable drive.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Ishikawa et al (US 5,853,331), Houben (US 6,348,004) and Clerx et al (US 6,405,655) all disclose various types of amusement rides.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROBERT J. MCCARRY JR whose telephone number is (571)272-6683. The examiner can normally be reached on Monday through Friday 7:00am to 3:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, S. Joseph Morano can be reached on (571) 272-6684. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3617

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



R. J. McCarry Jr.
Examiner
Art Unit 3617

RJM
January 15, 2008



S. JOSEPH MORANO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600